

# Title IV-E Findings: Legal Citations\*

Revised 6/10/04

<b>FEDERAL</b> (Title IV-E of the Social Security Act, 42 U.S.C. § 670 et seq.)	<b>DEPENDENCY</b> Welf. & Inst. Code (WIC), § 300 et seq.	<b>CALIFORNIA DELINQUENCY</b> WIC, § 602 et seq.	<b>RESULT IF NO FINDING</b>
<b>Detention/Removal Hearings</b>			
<b>A.</b> Court must make finding that “continuance in the home of the parent or legal guardian would be contrary to the child’s welfare.” (42 U.S.C. § 672(a)(1).)  This finding must be made at the time of the first court ruling authorizing removal of the child from the home. (45 C.F.R. § 1356.21(c).)	Continuance in the home of the parent or legal guardian is contrary to the child’s welfare. (WIC, §§ 319(b), 11401(b)(3); Cal. Rules of Court, rule 1446(c)(1).)  This finding must be made at the time of the first court ruling authorizing removal of the child from the home. (WIC, § 319(c).)	Continuance in the home of the parent or legal guardian would be contrary to the child’s welfare. (WIC, § 636(d), 11401(b)(3); Cal. Rules of Court, rule 1475(c)(1))  This finding must be made at the time of the first court ruling authorizing removal of the child from the home. (WIC, § 636(d)(4).)	<i><b>NEVER</b></i> eligible for Title IV-E funding (45 C.F.R. § 1356.21(c).)
<b>B.</b> Court must order that “placement and care are the responsibility of the State agency or any other public agency with whom the responsible state agency has an agreement.” (42 U.S.C. § 672(a)(2); 45 C.F.R. § 1356.71(d)(1)(iii).)	Temporary placement and care are vested with the child welfare agency pending disposition or further order of court. (WIC, § 319(e); Cal. Rules of Court, rule 1446(c)(2).)	Temporary placement and care are vested with the probation officer pending disposition or further order of court. (WIC, § 636(d)(3)(B); Cal. Rule of Court, rule 1475(c)(2).)	No funding until findings are made.
<b>C.</b> Court must make finding that “reasonable efforts have been made to prevent or eliminate need for removal.” (42 U.S.C. § 671(a)(15); 42 U.S.C. § 672(a)(1); 45 C.F.R. § 1356.21(b)(1).)  This finding must be made within 60 days of the date of removal. (45 C.F.R. § 1356.21(b)(1).)	Reasonable efforts have been made to prevent or eliminate the need for removal. (WIC, §§ 319(d)(1), 11401(b); Cal. Rule of Court 1446(d).)	Reasonable efforts have been made to prevent or eliminate the need for removal. (WIC, §§ 636(d)(2)(B), 727.4(d)(5), and 11401(b); Cal. Rules of Court, rule 1475(c)(3).)	<i><b>NEVER</b></i> eligible for Title IV-E funding. (45 C.F.R. § 1356.21(b)(1)(ii).)
<b>Case Review/Status Review Hearings – D Findings</b>			
Court must review child’s status and safety no less frequently than once every six months from <b>the date the child entered foster care</b> , in order to make the recommended legal findings as set forth on side two, sections II and IV (42 U.S.C. § 671(a)(16); 42 U.S.C. § 675(5)(B); 45 C.F.R. § 1355.34(c)(2)(ii) ; 45 C.F.R. § 1355.20.)	Periodic status reviews must be held, and the required findings made, no less frequently than every six months, with the first status review being held at the time of the initial dispositional hearing. (WIC, §§ 361(e), 366(a), 366.3, 11400(i) and 11404.1; Cal. Rules of Court, rule 1460(a).)	Periodic status reviews, must be held and the required findings made, for children in placement no less frequently than every six months from <b>the date the child entered foster care</b> , until termination of the case. (WIC, §§ 727.2(c), 11400(i), and 11404.1; Cal. Rules of Court, rule 1496.)	Failure to make findings will have financial consequences due to noncompliance with the State Plan.
<b>Permanent Plan Hearings – D Findings</b>			
Court must hold a permanency hearing to select a permanent plan no later than 12 months from <b>the date the child entered foster care</b> , and must hold subsequent permanency plan hearings every 12 months thereafter. (45 C.F.R. § 1356.21(b)(2)(i); (42 U.S.C. § 675(5)(C) and (F); 45 C.F.R. § 1355.20).) For a case in which no reunification services are offered, the permanency hearing must be held within 30 days of disposition. (45 CFR 1356.21(h)(2))	A permanency planning hearing must be held, and the required findings made, within 12 months from <b>the date the child entered foster care</b> , and subsequent permanency hearings must be held every 12 months thereafter. (WIC, §§ 361.5(f), 366.21(f), 366.21(g), 366.22, 366.3, 11400(j), and 11404.1; Cal. Rules of Court, rule 1461.)	A permanency planning hearing must be held, and the required findings made, within 12 months from <b>the date the child entered foster care</b> , and subsequent permanency hearings must be held every 12 months thereafter. (WIC, §§ 727.3(a)(1), 11400(j), and 11404.1; Cal. Rules of Court, rule 1496.)	Funding stops unless findings made.

## Definition of *date the child entered foster care*:

**Dependency**—Date the child entered foster care is the earlier of the first finding of child abuse or neglect (jurisdictional finding) or 60 days after the child is physically removed from the home of the parent(s) or legal guardian(s). (WIC, § 361.5(a); Cal. Rules of Court, rule 1401(7) and (13).)

**Delinquency**—Date the child entered foster care is the date that is 60 days after the date on which the child was physically removed from the home of the parent(s) or legal guardian(s) unless one of the following exceptions applies: 1) If the child is detained pending initial foster care placement and remains detained for more than 60 days, then the date of entry into foster care is the date of the hearing when placement is ordered; (2) If the child is adjudged a ward; committed to a ranch, camp, school, or other institution; and remains in that facility for more than 60 days prior to placement in foster care, then the date of entry into foster care is the date the child is physically placed in foster care. (WIC, § 727.4(d)(4); Cal. Rules of Court, rule 1401(7)(B).)

\*This chart is based on laws in effect at the time of publication – 6/10/04. Federal and state laws can change at any time. Chart compiled by the Judicial Review and Technical Assistance Project of the Administrative Office of the Courts’ Center for Families, Children & the Courts, 455 Golden Gate Ave., San Francisco, California 94102, (415) 865-7857

## Recommended Title IV-E Findings to Ensure Federal Foster Care Reimbursement

**Findings must be based on sufficient supporting evidence, presented to the court by the probation department or social services agency.**

### **I. Detention/Removal Hearings - Make the following findings and order:**

- A. Continuance in the home is contrary to the child's welfare;
- B. Temporary placement and care are vested with the child welfare agency *or* probation department; and
- C. Reasonable efforts have been made to prevent removal.

### **II. Prepermanency Case Review/Status Review Hearings - Make the following findings:**

- D1. The child's placement is necessary and appropriate;
- D2. The agency has complied with the case plan by making reasonable efforts to return the child to a safe home and to complete whatever steps are necessary to finalize the permanent placement of the child;
- D3. The extent of progress made by the mother/father/child (include child in delinquency only) toward alleviating or mitigating the causes necessitating placement has been \_\_\_\_\_; and
- D4. The likely date by which the child may be returned to and safely maintained in the home *or* placed for adoption, appointed a legal guardian, placed permanently with a relative, or placed in an identified placement with a specific goal is \_\_\_\_/\_\_\_\_/\_\_\_\_.
- D7. The court finds that the services set forth in the case plan include those needed to assist the child in making the transition from foster care to independent living.\*\*

### **III. Permanency Hearing - Make the following findings:**

- D1. The child's placement is necessary and appropriate;
- D2. The agency has complied with the case plan by making reasonable efforts to return the child to a safe home and to complete whatever steps are necessary to finalize the permanent placement of the child;
- D3. The extent of progress made by the mother/father/child (include child in delinquency only) toward alleviating or mitigating the causes necessitating placement has been \_\_\_\_\_; and
- D5. The permanent plan of \_\_\_\_\_ is appropriate and is ordered as the permanent plan.
  - ☐ *return home* **or**
  - ☐ *adoption* **or**
  - ☐ *legal guardianship* **or**
  - ☐ *permanent placement with* \_\_\_\_\_, *a fit and willing relative* **or**
  - ☐ *placement with* \_\_\_\_\_, *and a specific goal of* \_\_\_\_\_. (Provide the name of the placement and select return home, adoption, legal guardianship, placement with a relative, a less restrictive foster setting, or emancipation with identification of a long-term mentor.)
- D6 a. The likely date by which the agency will finalize the permanent plan is \_\_\_\_/\_\_\_\_/\_\_\_\_. **OR**  
b. The likely date by which the child's specific goal will be achieved is \_\_\_\_/\_\_\_\_/\_\_\_\_. (Use D6b finding only for a child in an identified placement with a specific goal.)
- D7. The court finds that the services set forth in the case plan include those needed to assist the child in making the transition from foster care to independent living.\*\*

### **IV. Post Permanency Periodic Review Hearings - Make the following findings:**

- D1. The child's placement is necessary and appropriate;
- D2. The agency has complied with the case plan by making reasonable efforts, including whatever steps are necessary to finalize the permanent placement of the child; and
- D5. The permanent plan of \_\_\_\_\_ is appropriate and is ordered as the permanent plan.
  - ☐ *return home* **or**
  - ☐ *adoption* **or**
  - ☐ *legal guardianship* **or**
  - ☐ *permanent placement with* \_\_\_\_\_, *a fit and willing relative* **or**
  - ☐ *placement with* \_\_\_\_\_, *and a specific goal of* \_\_\_\_\_. (Provide the name of the placement and select return home, adoption, legal guardianship, placement with a relative, a less restrictive foster setting, or emancipation with identification of a long-term mentor.)
- D6 a. The likely date by which the agency will finalize the permanent plan is \_\_\_\_/\_\_\_\_/\_\_\_\_. **OR**  
b. The likely date by which the child's specific goal will be achieved is \_\_\_\_/\_\_\_\_/\_\_\_\_. (Use D6b finding only for a child in an identified placement with a specific goal.)
- D7. The court finds that the services set forth in the case plan include those needed to assist the child in making the transition from foster care to independent living.\*\*

**\*\* Requirement for children 16 or older:** D7 finding must be made at every review hearing (42 U.S.C. §675(5)(C)).